

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 9490 of 2004

Between:

Thotha Ranga Rao, S/o Kistaiah, Hindu,
R/o Ajjamuru, Akiveedu (M). West Godavari District.

..... PETITIONER

AND

- 1 The Assistant Commissioner of Endowments, Eluru, West Godavari District.
- 2 The Chairman- Executive Authority, Sri Janardhana Swamy Temple,
Ajjamuru, Akiveedu (M), W.G. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction declaring the action of the respondent in issuing the form-I notice under Rule 5(1) dated 8-5-2004 of A.P. Charitable Hindu Religious Institutions and Endowments lease of Agricultural lands Rules, 2003 as illegal and null and void for consequential order, directing respondent to drop all further proceedings including taking possession of the land measuring 3 Ac. 29 cents in Sy. No. 30/1 and 30/4 of 2nd respondent Devasthanam, situated in Ajjamuru (V), Akiveedu (M), W.G. District.

Counsel for the Petitioner: MR.CH.DHANAMJAYA

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: Mr.N.Indhrani

The Court made the following :

ORDER:

The petitioner is a cultivating tenant of the second respondent-Devasthanam in respect of an extent of Ac.3-29 cents agricultural land in Survey Nos.30/1 and 30/4 of Ajjamuruvillage, Akiveedu Mandal.

The tenancy was determined in Form-I notice dated 08-05-2004 under Rule 5(1) of the Andhra Pradesh Charitable Hindu Religious Institutions and Endowments lease of Agricultural lands Rules, 2003, which was issued to the petitioner asking him to handover the possession of the leased lands, failing which, he was threatened with eviction treating him as an encroacher. Assailing and claiming the benefits of a small farmer under Section 82 of the Andhra Pradesh Charitable and Hindu Religious institutions and Endowments Act, 1987, this writ petition is filed.

Similar question came up for consideration by this court in W.P.No.12022 of 2003. A learned single Judge of this Court by the judgment dated 24-06-2003, disposed of the writ petition with the following directions:

“ (a) If the petitioners claim the status of landless poor, it shall be open to them to approach the concerned Assistant Commissioner of Endowments, with an appropriate application, within two weeks from the date on which the copy of the order is furnished to them by the court. On such application being made, the concerned Assistant Commissioner shall decide the matter in accordance with the guidelines and conditions laid down in the explanation to Section 82 of the Act, 30/87, duly putting the tenants as well as the temple on notice; and pass appropriate orders within one month from the date of presentation of the application. This exercise shall not be necessary, if the status of such tenants was already decided or where no such application is made. For the purpose of deciding this question, the status of the actual lessee of the land shall be taken into account. The fact that the family of such lessee went through partition or other such factors shall not have any bearing on the question.

(b) If the tenants are declared as landless poor as defined in the explanation to Section 82, through an order by the Assistant Commissioner of Endowments, such tenants shall be entitled to be continued as lessees at the rates fixed by verification or by holding auction; for an extent of land, not exceeding the limits stipulated in the explanation. Except where such persons emerge as the highest bidders, they shall be liable to surrender the remaining lands.

(c) The question of sale of any land belonging to temple would arise, if only, a decision in that regard is taken by the concerned Trust Board for the genuine needs of the temple and subject to approval by the authorities prescribed under the Act. If the decision to sell any land is taken in the manner stipulated above in the interests of the concerned temple, the right of the tenants declared as landless poor to purchase such land, as contemplated in the Rules issued in G.O.Ms.No.379, dated 11-03-2003 would arise, for an extent not exceeding the limits stipulated under the explanation to Section 82.”

The learned counsel for the petitioner and the learned counsel for the second respondent-Devasthanam are agreed that this writ petition should be disposed of in terms of the judgment above.

The writ petition is accordingly disposed of in terms of the judgment dated 24-06-12003 in W.P.No.12022 of 2003.

Pending determination of the status of the petitioner by the Assistant Commissioner concerned, *status quo* as on date shall be maintained. The second respondent shall fix the rate of lease for the lands in the possession of the petitioner, by negotiations or by inviting bids. The lease amount so arrived at shall be valid at for the current year, if he is in possession of the lands as on date and if the petitioner is not agreeable to pay such amount, the second respondent shall be at liberty to resume the land and put it to auction. Auction so held shall not be confirmed, however, till the determination of the status of the petitioner as directed in this judgment. Thereafter, the rights of the petitioner shall follow the determination of his status as determined by the Assistant Commissioner. No order as to costs.

(GODA RAGHURAM, J)

Date: 07-02-2005

ghn

To

1 The Assistant Commissioner of Endowments, Eluru, West Godavari District.

2 The Chairman- Executive Authority, Sri Janardhana Swamy Temple, Ajjamuru, Akiveedu (M), W.G. District.

3 Two CCs to the Government Pleader for Endowments, High Court Buildings, High Court of A.P., Hyderabad. (O.U.T.)

4 Two CD copies.